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PART III.

Legislative Measures and Rules thereunder.

REGULATION No. III OF 1910.

(Received the Assent of His Highness the Maharaja on the 6th day of September 1910.)

A Regulation to provide a law relating to Treasure-Trove.

Whereas it is expedient to provide a law relating to Treasure-Trove in Mysore; His Highness the Maharaja is pleased to enact as follows:—

Preamble.

PRELIMINARY.

1. This Regulation may be called "The Mysore Treasure-Trove Regulation, 1910."

Short title.

It extends to the whole of Mysore.

Extent.

And it shall come into force on the date of the passing thereof.

Commencement.

2. The rules for the disposal of Treasure-Trove published under the late Mysore Chief Commissioner's Notification No. 6, dated the 17th April 1867; are hereby repealed.

Repeal of enactments.

3. In this Regulation,

Interpretation clause.

"Treasure" means anything of any value hidden in the soil, or in anything affixed thereto;

"Treasure."

"Deputy Commissioner" means (1) any Revenue Officer in independent charge of a district and (2) any officer appointed by Government to perform the functions of a Deputy Commissioner under this Regulation.

"Deputy Commissioner."

When any treasure is discovered in the course of any work done at the express or implied direction of any person, such person shall be deemed to be the finder.

"Finder."

When any person is entitled, under any reservation in an instrument of transfer of any land or thing affixed thereto, to treasure in such land or thing, he shall, for the purposes of this Regulation, be deemed to be the owner of such land or thing.

"Owner."

Where any land is the property of Government under section 36 of the Land Revenue Code, 1888, the Government shall, for the purposes of this Regulation, be deemed to be the owner of the land or thing affixed thereto.

PROCEDURE ON FINDING TREASURE.

4. Whenever any treasure exceeding in amount or value ten rupees is found, the finder shall, as soon as practicable, give to the Deputy Commissioner notice in writing—

Notice by finder of treasure.

(*a*) of the nature and amount or approximate value of such treasure;

(*b*) of the place in which it was found; and

(*c*) of the date of the finding;

and either deposit the treasure in the nearest Government Treasury, or give the Deputy Commissioner such security as the Deputy Commissioner thinks fit, to produce the treasure at such time and place as he may from time to time require.

5. On receiving a notice under section 4, the Deputy Commissioner shall, after making such enquiry (if any) as he thinks fit, take the following steps (namely):—

Notification requiring claimants to appear.

(*a*) He shall publish a notification in such manner as the Government from time to time prescribes in this behalf, to the effect that, on a certain date (*mentioning it*) certain treasure (*mentioning its nature, amount and approximate value*) was found in a certain place (*mentioning it*); and requiring all persons claiming the treasure, or any part thereof, to appear personally or by agent before the Deputy Commissioner on a day and at a place therein mentioned, such day not being earlier than four months, or later than six months after the date of the publication of such notification;

(*b*) When the place in which the treasure appears to the Deputy Commissioner to have been found was, at the date of the finding, in the possession of, or belonged to, some person other than the finder, the Deputy Commissioner shall also serve on such person a special notice in writing to the same effect.

6. Any person having any right to such treasure or any part thereof, as owner of the place in which it was found or otherwise, and not appearing as required by the notification issued under section 5, shall forfeit such right.

Forfeiture of right on failure to appear.

7. On the day notified under section 5, the Deputy Commissioner shall cause the treasure to be produced before him and shall enquire as to and determine—

Matters to be enquired into and determined by the Deputy Commissioner.

(*a*) the person by whom, the place in which, and the circumstances under which, such treasure was found; and

(*b*) as far as is possible, the person by whom, and the circumstances under which, such treasure was hidden.

8. If upon an enquiry made under section 7, the Deputy Commissioner sees reason to believe that the treasure was hidden within one hundred years before the date of the finding by a person appearing as required by the said notification and claiming such treasure, or by some other person under whom such person

Time to be allowed for suit by person claiming the treasure.

claims, the Deputy Commissioner shall make an order adjourning the hearing of the case for such period as he deems sufficient, to allow of a suit being instituted in the Civil Court by the claimant to establish his right.

Provided that in the event of the claimant succeeding in his suit, it shall be competent to the Civil Court to award the finder a reward not exceeding one-fourth the value of the treasure.

When treasure may be declared ownerless.

9. If, upon such enquiry, the Deputy Commissioner sees no reason to believe that the treasure was so hidden; or

if, where a period is fixed under section 8, no suit is instituted as aforesaid within such period to the knowledge of the Deputy Commissioner; or

if such suit is instituted within such period, and the plaintiff's claim is finally rejected;

the Deputy Commissioner may declare the treasure to be ownerless.

Appeal against such declaration.

Any person aggrieved by a declaration made under this section may appeal against the same within two months from the date thereof to the Government;

subject to such appeal, every such declaration shall be final and conclusive.

Proceedings subsequent to declaration.

10. When a declaration has been made in respect of any treasure under section 9, such treasure shall be disposed of in accordance with the provisions hereinafter contained.

When no other person claims as owner of place, treasure to be given to finder.

11. When a declaration has been made as aforesaid in respect of any treasure and no person other than the finder of such treasure has appeared, as required by the notification published under section 5, and claimed a share as owner of the place in which it has been found or otherwise, the Deputy Commissioner shall, subject to the provisions of section 16, deliver such treasure to the finder thereof.

When only one such person claims, and his claim is not disputed, treasure to be divided.

12. When a declaration has been made as aforesaid in respect of any treasure, and only one person other than the finder of such treasure has so appeared and claimed and the claim of such person is not disputed by the finder, the Deputy Commissioner shall proceed to divide the treasure between the finder and the person so claiming according to the following rule (namely):—

If the finder and the person so claiming have not entered into any agreement then in force as to the disposal of the treasure, one-half of the treasure not exceeding a lakh of rupees in amount or value shall be allotted to such finder and the remainder to such person. If such finder and such person have entered into any such agreement, the treasure shall be disposed of in accordance therewith:

Provided that the Deputy Commissioner may, in any case, if he thinks fit, instead of dividing any treasure as directed by this section,

(*a*) allot to either party the whole or more than his share of such treasure on such party paying to the Deputy Commissioner for the other party such sum of money as the Deputy Commissioner may fix as the equivalent of the share of such other party or of the excess so allotted, as the case may be; or

(*b*) with the sanction of Government, and subject to its instructions, if any, sell such treasure or any portion thereof by public auction and divide the sale proceeds between the parties according to the rule hereinbefore prescribed:

Provided also that when the Deputy Commissioner has, by his declaration under section 9, rejected any claim made under this Regulation by any person other than the said finder or person claiming as owner of the place in which the treasure was found or otherwise such division

shall not be made until after the expiration of two months without an appeal having been presented under section 9 by the person whose claim has been so rejected or, when an appeal has been so presented, after such appeal has been dismissed.

When the Deputy Commissioner has made a division under this section, he shall deliver to the parties the portions of such treasure or the money in lieu thereof, to which they are respectively entitled under such division.

And shares to be delivered to parties.

13. When a declaration has been made as aforesaid in respect of any treasure, and two or more persons have appeared as aforesaid and each of them claimed as owner of the place where such treasure was found or otherwise, or the right of any person who has so appeared and claimed is disputed by the finder of such treasure, the Deputy Commissioner shall retain such treasure, and shall make an order staying his proceedings with a view to the matter being enquired into and determined by a Civil Court.

In case of dispute as to ownership of place, proceedings to be stayed.

14. Any person who has so appeared and claimed may, within one month from the date of such order, institute a suit in the Civil Court to obtain a decree declaring his right; and in every such suit, the finder of the treasure and all persons disputing such claim before the Deputy Commissioner shall be made defendants.

Settlement of such dispute.

15. (1) If any such suit is instituted and the plaintiff's claim is finally established therein, the Deputy Commissioner shall, subject to the provisions of section 12, divide the treasure between him and the finder.

And division thereupon.

(2) If no such suit is instituted as aforesaid, or if the claims of the plaintiffs in all such suits are finally rejected, the Deputy Commissioner shall deliver the treasure, subject to the provisions of section 16, to the finder.

16. If, in the case referred to in section 11 or in sub-section (2) of section 15, the amount or value of the treasure found exceeds one lakh of rupees, the Deputy Commissioner shall deliver so much of the treasure as is of the amount or value of one lakh of rupees to the finder and shall declare the excess to be at the disposal of Government.

If value of treasure exceeds one lakh, finder to get one lakh, the excess going to Government in specified cases.

17. The Deputy Commissioner may, at any time after making a declaration under section 9 and before delivering or dividing the treasure as hereinbefore provided, declare, by writing under his hand, his intention to acquire on behalf of the Government the treasure or any specified portion thereof by payment to the persons entitled thereto of a sum equal to the value of the materials of such treasure or portion, together with one-fifth of such value, and may place such sum in deposit in his treasury to the credit of such persons, and thereupon such treasure or portion shall be deemed to be the property of Government and the money so deposited shall be dealt with, as far as may be, as if it were such treasure or portion.

Power to acquire the treasure on behalf of Government.

18. No decision passed or act done by the Deputy Commissioner under this Regulation shall be called in question by any Civil Court, and no suit or other proceeding shall lie against him for anything done in good faith in exercise of the powers hereby conferred.

Decision of Deputy Commissioner final and no suit to lie against him for acts done *bona fide*.

19. A Deputy Commissioner making any enquiry under this Regulation may exercise any power conferred by the Code of Civil Procedure on a Civil Court for the trial of suits; and the provisions of Chapter VII of the Code of Civil Procedure shall, so far as may be, apply to proceedings under this Regulation.

Deputy Commissioner to exercise powers of Civil Court.

20. The Government may, from time to time, make rules, consistent with this Regulation, to regulate proceedings hereunder and, generally, all matters not provided for herein. Such rules shall, on being published in the Official Gazette, have the force of law.

Power to make rules.

PENALTIES.

Penalty on finder failing to give notice, etc.

21. If the finder of any treasure fails to give the notice or does not either make the deposit or give the security required by section 4, or alters or attempts to alter such treasure so as to conceal its identity, the share of such treasure or the money in lieu thereof to which he would otherwise be entitled shall vest in the Government and he shall, on conviction before a Magistrate, be punished with imprisonment for a term which may extend to one year or with fine or with both.

Penalty on owner abetting offence under section 21.

22. If the owner of the place in which any treasure is found abets, within the meaning of the Indian Penal Code, any offence under section 21, the share of such treasure or the money in lieu thereof to which he would otherwise be entitled shall vest in the Government, and he shall, on conviction before a Magistrate, be punished with imprisonment which may extend to six months or with fine or with both.

T. ANANDA ROW,
Dewan.